

Members

Rep. Cleo Duncan, Chairperson  
Rep. Phyllis Pond  
Rep. Vanessa Summers  
Rep. Clyde Kersey  
Sen. David Ford  
Sen. Brent Steele  
Sen. Anita Bowser  
Sen. Billie Breaux  
Robyn Moberly  
Sharon Bradford  
John Brandt  
Bruce Pennamped



# CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE

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Authority: IC 33-24-11-1

## MEETING MINUTES<sup>1</sup>

Meeting Date: October 4, 2006  
Meeting Time: 1:00 P.M.  
Meeting Place: State House, 200 W. Washington  
St., Room 156-B  
Meeting City: Indianapolis, Indiana  
Meeting Number: 1

**Members Present:** Rep. Cleo Duncan, Chairperson; Rep. Phyllis Pond; Rep. Vanessa Summers; Sen. Anita Bowser; Robyn Moberly; Sharon Bradford; Bruce Pennamped.

**Members Absent:** Rep. Clyde Kersey; Sen. David Ford; Sen. Brent Steele; Sen. Billie Breaux; John Brandt.

Representative Duncan, Chairperson, called the first meeting of the Indiana Child Custody and Support Advisory Committee ("Committee") to order at 1:05 P.M. The members of the Committee introduced themselves.

### Interference with Custody-- PD 3293

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

*PD 3293<sup>2</sup> -- Interference with Custody*

Preliminary draft (PD) 3293 deletes the requirement that an individual who fails to return a child commits interference with custody only if the individual takes the child outside of Indiana. PD 3293 also deletes the requirement that an individual who takes a child with the intent to deprive another person of custody or parenting time commits interference with custody only if the individual conceals the child.

Ms. Amanda Brunner with the Ripley County Prosecutor's Office provided a memorandum<sup>3</sup> regarding a case that involved interference with custody. Ms. Brunner indicated that the case was compromised because of the wording in IC 35-42-3-4. She testified that the Ripley County Prosecutor's Office supported the proposed changes to the statute in PD 3293.

Judge Robyn Moberly, Committee member, asked whether this should be pursued criminally and noted that people could pursue the case described by Ms. Brunner in civil court. Judge Moberly stated that the concealment requirement may be an important factor in the statute. She further explained that these cases often happen and that civil law provides an adequate remedy. Senator Bowser indicated that by crossing state lines there appeared to be an intent to deceive in the facts of the case and asked if Indiana had a statute addressing this matter.

\_\_\_\_\_ Representative Summers asked how to prevent people from misusing the system. Judge Moberly replied that as a judge, she would have called the judge in the other state and would have scheduled a quick hearing. She also stated that a judge can require a party who abuses the system to pay all the attorney costs. Furthermore, she indicated that a judge can limit parenting time or actions of a parent concerning the child when the parent has done something wrong.

Ms. Brunner discussed the difficulty in serving a party in another state. Judge Moberly and Mr. Bruce Pennamped discussed service by publication.

Mr. Robert Monday with the Children's Rights Council testified that he had worked with a lot of parents in similar situations. He said that often the parent who took the child is not concealing the child, and the other parent has a difficult time getting the child. He stated that civil courts are backed up and pursuing a case in civil court is expensive. He encouraged the Committee to address the issue of concealment in the statute.

Mr. Pennamped suggested adding "parenting time order" to subsection (a) of the statute, so that a person who meets the requirements under the statute and violates a parenting time order commits interference with custody. The Committee members amended PD 3293 to include "parenting time order" and added "concealment" as a separate violation. PD 3293, as amended, was not approved by the Committee members, but the Committee members stated that the legislative members could introduce the preliminary draft without the approval of the Committee.

**Other Business**

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<sup>2</sup> Exhibit A

<sup>3</sup> Exhibit B

Mr. Joseph Dunagan, a noncustodial father, discussed two issues with the Committee members. He first asked that there be consistency in the parenting time guidelines concerning at what time a noncustodial parent must return a child to the custodial parent. He provided a handout<sup>4</sup> concerning the various times for returning a child on weekdays, weekends, and different holidays under the parenting time guidelines. He also asked that two holidays be added to the parenting time guidelines, Martin Luther King, Jr. Day and Fall Break.

Representative Pond stated that the Indiana Supreme Court has a committee that creates the parenting time guidelines. Judge Moberly indicated that Mr. Dunagan could attend the Domestic Relations Committee of the Indiana Supreme Court, which establishes and reviews the parenting time guideline, to discuss his concerns.

Ms. Marge Hefner provided the Committee members with a copy of a newspaper article<sup>5</sup> concerning family law matters that she wrote. She read her article to the Committee members.

\_\_\_\_\_ Mr. Dunagan discussed his concerns with the child support guidelines. He indicated that he changed jobs and took a pay cut to be geographically closer to his children, but the court determined child support according to what he had been making versus his current income. The Committee members explained that the Domestic Relations Committee of the Indiana Supreme Court established and reviewed the child support guidelines.

\_\_\_\_\_ After reviewing the final report<sup>6</sup> for the Committee, the Committee members approved the final report in a roll call vote, 7-0.

### **Adjournment**

\_\_\_\_\_ There being no further business to conduct, Representative Duncan adjourned the meeting at 2:10 P.M.

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<sup>4</sup> Exhibit C

<sup>5</sup> Exhibit D

<sup>6</sup> Exhibit E